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12 Attorneys for Chapter 11 Debtor in Possession
13 ORCO CONSTRUCTION SUPPLY, INC.

14 UNITED STATES BANKRUPTCY COURT
15 NORTHERN DISTRICT OF CALIFORNIA
16 OAKLAND DIVISION

17 In re
18 ORCO CONSTRUCTION SUPPLY, INC.,
19 Debtor.

20 Case No. 09-42847 T

21 Chapter 11 Case

22 Date: May 19, 2009
23 Time: 9:30 a.m.
24 Place: 1300 Clay Street, Room 201
25 Oakland, California
26 Judge: Hon. Leslie Tchaikovsky

27 **NOTICE AND SUBMISSION OF OVERBID OF HD SUPPLY**
28 **AS HIGHEST AND BEST BID**

29 **TO ALL PARTIES TO EXECUTORY CONTRACTS AND UNEXPIRED LEASES,**
30 **ALL PURPORTED HOLDERS OF LIENS, CLAIMS OR INTERESTS IN**
31 **PROPERTY TO BE SOLD, ALL OTHER PARTIES IN INTEREST, AND THE**
32 **UNITED STATES TRUSTEE:**

33 **PLEASE TAKE NOTICE** that an auction of substantially all of the assets of ORCO
34 Construction Supply, Inc., the debtor in possession in this Chapter 11 case ("Debtor"), was
35 commenced on May 13, 2009, at 10:00 a.m., and was continued at various times thereafter,
36 pursuant to the Court's Order Approving Motion Of Debtor In Possession To Establish Sale
37 Procedures And Scheduling Hearing On Motion For Sale Of Substantially All Its Assets (the

38 NOTICE AND SUBMISSION OF OVERBID OF HD SUPPLY AS HIGHEST AND BEST BID

1 “Sale Procedures Order”). At a status conference on May 14, 2009, commencing at 11:00
2 a.m., the Court authorized and directed Debtor to prepare a notice of the bid that Debtor
3 determines to be the highest and best bid. Debtor consulted with its financial advisor M&A
4 Capital, LLC, and its attorneys. As required by the Sale Procedures Order, Debtor also
5 sought the views the financial advisor and attorneys for the official committee of unsecured
6 creditors (the “Committee”). Debtor has determined that the highest and best bid, subject to
7 approval of the Court, is the bid of HD Supply Construction Supply, Ltd., a Florida limited
8 partnership (dba WhiteCap) (“HD Supply”). HD Supply’s bid is in the form of an
9 irrevocable and binding offer, recited on the record before a court reporter at the auction, to
10 enter into an Asset Purchase Agreement with Debtor in the form attached as **Exhibit A**
11 hereto (the “APA”). A copy of this Notice and Submission is being posted on the Web Site
12 established pursuant to the Sale Procedures Order (www.howardrice.com/legal/orco) and is
13 available upon request to the undersigned.

14 **PLEASE TAKE FURTHER NOTICE** that included in the APA is a revised
15 Schedule 1.2, a copy of which is attached hereto as **Exhibit B**.

16 DATED: May 15, 2009.

17 Respectfully,

18 JAMES L. LOPES
19 GARY M. KAPLAN
20 NEIL W. BASON
21 HOWARD RICE NEMEROVSKI CANADY
22 FALK & RABKIN
23 A Professional Corporation

24 By: /s/ Neil W. Bason
25 NEIL W. BASON

26 Attorneys for Debtor ORCO CONSTRUCTION
27 SUPPLY, INC., a California corporation
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